

REMARKS

Claims 1-32, 43, 45, 56, 58, 61, 62 and 64-69 are pending. Claims 42, 55 and 63 have been canceled. Claims 22-41, 44, 46-54, 57, 59 and 60 were previously canceled. Claims 43, 45, 56, 58, 61 and 64 have been amended. Claims 1-32, 62, 68 and 69 were allowed.

Amended Claims 43, 45, 56, 58, 61 and 64

Claim 43: In line 18, “65” was replaced with “55”.

Claim 45: In line 22, “65” was replaced with “55”.

Claim 56: In line 22, “65” was replaced with “55”.

Claim 58: In line 26, “65” was replaced with “55”.

Claim 61: In line 16, “65” was replaced with “55”.

Claim 64: In line 16, “70” was replaced with “55”.

Pursuant to 37 CFR 1.173(c), the 55 degree Fahrenheit limitation, subject of the amendment of claims 43, 45, 56, 58, 61 and 64, is supported at column 5, lines 49-51. Specifically, the Specification, at 5:49-51, states, “More preferably, the UVC output from the tube 100 peaks when an air velocity of 400 fpm at 55° F. is passed across the tube 100.”

Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel

Claims 42, 55 and 63 have been canceled and claims 43, 45, 56, 58, 61 and 64 have been amended notwithstanding the belief that these claims were allowable. Except as specifically admitted below, no claim elements have been narrowed.

Any reference herein to “the invention” is intended to refer to the specific claim or claims being addressed herein. The claims of this Application are intended to stand on their own and are

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not to be read in light of the prosecution history of any related or unrelated patent or patent application. Furthermore, no arguments in any prosecution history relate to any claim in this Application, except for arguments specifically directed to the claim.

Claim Objections

The Examiner asserted that claims 62, 68 and 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. This objection is respectfully traversed. As presented below, claim 61 is not obvious from Brickley in view of Haidinger and Kurtz. Thus, claims 62, 68 and 69 are allowable in current form.

Claim Rejections - 35 USC § 103

The Examiner rejected claims 43, 45, 56 and 58 under 35 U.S.C. 103(a) as obvious from Brickley (USP 5,902,552) in view of Haidinger et al. (USP 5,505,904) and Block (*Disinfection, Sterilization, and Preservation*, 4th edition). This rejection is respectfully traversed.

Claims 43, 45, 56 and 58 are all independent and all recite the limitation “wherein the germicidal tube when energized emits UVC without substantial ozone and can withstand skin-effect cooling in an air flow of between 200 cfm and 600 cfm at between 30 degrees Fahrenheit and 60 degrees Fahrenheit.” The Examiner asserted that Haidinger’s UVC lamps “operate efficiently when the air temperature is in the range of 60 degrees to 80 degrees Fahrenheit.”

However, Haidinger, at 4:32-36, states “It has been found that the level of radiant energy produced by UV lamps is temperature dependent and that the efficiency of operation of the UV lamps decreases when temperatures deviate from the 60 degree to 80 degree Fahrenheit range.” Since Haidinger expressly teaches away from the limitation “wherein the germicidal tube when energized emits UVC without substantial ozone and can withstand skin-effect cooling in an air flow of

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between 200 cfm and 600 cfm at between 30 degrees Fahrenheit and 60 degrees Fahrenheit”, claims 43, 45, 56 and 58 are not obvious from Brickley in view of Haidinger and Block.

Therefore, it is respectfully requested that the rejection be withdrawn.

Claim Rejections - 35 USC § 103

The Examiner rejected claims 61 and 64-67 under 35 U.S.C. 103(a) as obvious from Brickley (USP 5,902,552) in view of Haidinger et al. (USP 5,505,904) and Kurtz (USP 5,660,719). This rejection is respectfully traversed.

Claims 61 and 64 are independent. Claim 61 recites the limitation, “wherein the emitting means includes means for causing UVC output to peak when an air flow of between 200 cfm and 600 cfm at between 30° F and 60 ° F is passed across the emitting means” and claim 63 recites the limitation “wherein the emitting means includes means for emitting UVC of at least 10 μ W/cm² per inch arc length at one meter when an air flow of between 0° F and 60 ° F is passed across the tube.” The Examiner asserted the same rationale with regard to Haidinger teaching this limitation as with independent claims 43, 45, 56 and 58.

The arguments set forth above regarding claims 43, 45, 56 and 58 are applicable to the rejection of claims 61 and 63. Therefore, claims 61 and 63 are not obvious from Brickley in view of Haidinger. Moreover, nothing in Kurtz overcomes the shortcomings of Brickley and Haidinger. Therefore, claims 61 and 63 are not obvious from Brickley in view of Haidinger and Kurtz.

By virtue of their dependence from claim 61, claims 62 and 65-67 are not obvious from Brickley in view of Haidinger and Kurtz.

Therefore, it is respectfully requested that the rejection be withdrawn.

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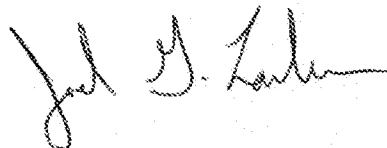
Conclusion

In view of all of the above, it is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned attorney to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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